2. THE COCHIN MAINTENANCE ORDERS ENFORCEMENT BILL

Mr. M. Sivarama Menon *(Advocate-General):* I move that the Cochin Maintenance Orders Enforcement Bill be taken up and finally passed.

Mr. C. J. Mathew *(Joint Secretary to Government):* I second it.

Motion put and carried.

3. THE COCHIN CODE OF CRIMINAL PROCEDURE (AMENDMENT) BILL

Mr. M. Sivarama Menon *(Advocate-General):* I beg to move that the Cochin Code of Criminal Procedure Amendment Bill be read in Council. The purpose of this Amendment is to bring the Cochin Code of Criminal Procedure on a par with the Code in British India. Our Code is not exactly on all fours with the British Indian Code. The amended section closely follows the British Indian Section about the procedure relating to summary trials and the main purpose of the amendment is to enable Magistrates to try summarily petty cases. Under the section as it now stands in the Cochin Code of Criminal Procedure, offences triable are summarily very few. Section 236 lays down such cases. Offences under the hackney carriages are not triable summarily now. Under the British Indian Code there are various offences for which trials can be had summarily. They are enumerated in Section 260 of the Criminal Procedure Code of British India. There, the following offences can be tried in a summary way: (*a*) offences not punishable with death, transportation or imprisonment for a term exceeding six months. (*b*) offences relating to weights and measures, offences under sections 264, 265, 266 of the Indian Penal Code, etc. Under our Code as it stands, offences relating to the use of false weights and measures cannot be tried summarily. But the British Code makes provision for the same.

The main purpose of the amendment is to bring our Code also in conformity with the provisions in British India for the purpose of speedy trial of minor offences.

The second amendment is to the effect that where in the course of a summary trial, it appears to the Magistrate or Bench that the case is one which is of a character which renders it undesirable that it should be tried summarily, the Magistrate or Bench shall recall any witnesses who may have been examined and proceed to rehear the case in a manner provided by this Code. Suppose in a small petty case, it is found that a complicated question of law arises and that it cannot be summarily disposed of. Even in such cases, the magistrates have got a discretion. That is a safeguard.

In trials under this chapter, the procedure prescribed for summons cases must be followed in summons cases, and the procedure prescribed for warrant cases must be followed in warrant cases, except where specific provisions have been made relating to procedure. No sentence of imprisonment for a term exceeding three months can be passed in the case of any conviction under this Chapter.

Government may authorise any bench magistrate to try offences summarily, to prepare the records or judgment in the cases by means of an officer appointed in this behalf by the court to which such bench is immediately subordinate. The record or judgment so prepared shall also be signed by each member of such bench taking part in the proceedings.

Mr. V. J. Mathai *(Planters):* What do you mean by the term 'prepare' ?

Mr. M. Sivarama Menon *(Advocate-General):* Mere writing.

Mr. V. J. Mathai *(Planters):* Is it the same wording as is used in British India ?

Mr. M. Sivarama Menon *(Advocate-General):* Yes. There are adequate safeguards provided by the law-makers in British India and we are only rendering petty offences triable summarily.

Mr. V. J. Mathai *(Planters):* They are all felonies,

Mr. M. Sivarama Menon *(Advocate-General):* Throughout British India, this has been the procedure adopted.

Mr. V. J. Mathai *(Planters):* What about depositions ?

Mr. M. Sivarama Menon *(Advocate-General):* A Memorandum of the evidence is sufficient. Only magistrates who are specially empowered will get these powers. This will not lead to any miscarriage of justice or take away the adequate safeguards provided for under the amendment. Wherever there is failure of justice, the case will be remanded.

The House rose for lunch at 1-5 p.m. and re-assembled at 2-30 p.m. with M. R. Ry. K. Ayyappan Avl., Deputy President in the Chair.

Mr. M. Sivarama Menon *(Advocate General):* In attempting to dissuss the principles of the Bill in some detail, I wish only to make the House understand that we are not making

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